

PROFESSIONAL ENGINEERS SECTION MEETING

MINUTES

The Professional Engineers Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on February 15, 2012, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

John L. Combs
Nico De León
Wiley V. Johnson, III

Staff present for all or part of the meeting were:

Gordon N. Dixon, Director
Mark N. Courtney, Deputy Director of Licensing and Regulation
Kathleen (Kate) R. Nosbisch, Executive Director
Marian Brooks, Board Administrator
Justin Garofalo, Board Administrator
Amy Goobic, Administrative Assistant
Earlyne Perkins, Legal Analyst

No representative was present from the Office of the Attorney General.

Mr. Johnson, Chair, called the meeting to order at 9:10 a.m.

Mr. Johnson reviewed the emergency evacuation procedures.

Ms. Nosbisch recognized National Engineers Week, February 19-25, and thanked the Section members for their service to the Board.

Ms. Nosbisch requested 'Other Business' be moved in the agenda to accommodate a guest that would be addressing the Section. Mr. Combs moved to approve the agenda as amended. Mr. De León seconded the motion which was unanimously approved by members: Combs, De León, and Johnson.

There was no public comment.

Mr. Vargulic was present to address the Section. Mr. Vargulic reviewed his educational background and stated that he believes he meets the requirements for comity licensure.

Ms. Perkins explained to the section that Mr. Vargulic's licensing case was presented at the December 15, 2011, APELSCIDLA Board meeting for consideration. The case was remanded back to the Section for further review.

Regarding **File Number 2012-01384, David Vargulic**, the Board members

Call to Order

Emergency Evacuation Procedures

Recognition of National Engineers Week

Approval of Agenda

Public Comment Period

File Number 2012- 01384, David Vargulic

reviewed the record of the Informal Fact-Finding Conference, which consisted of the application, transcripts, exhibits, and the Summary of the Informal Fact-Finding Conference as well as the recommendation of the presiding board member. Discussion was held on Mr. Vargulic's educational background and whether it meets the requirements for licensure by comity contained in the regulations in place at the time of his original licensure.

Section members recessed from 9:30 a.m. to 9:35 a.m. to review the 1994 regulations, as these were the regulations in place at the time of Mr. Vargulic's original licensure.

Recess

Mr. De León moved to reject the recommendation of the presiding board member denying Mr. Vargulic's application, and approve the application based on the self-study requirements contained in the 1994 regulations. Mr. Combs seconded the motion, which was unanimously approved by members: Combs and De León. As the presiding board member, Mr. Johnson was not present for the discussion or vote.

File Number 2012-01384, David Vargulic

Ms. Peggy Hawkins, HR Director for DEQ, was present to address the Section regarding the letter DEQ received from Mr. Dixon on the topic of the use of protected professional titles and job classifications. Ms. Hawkins was seeking a more definite interpretation from the Section as to whether *any* employee with a job title containing 'engineer' had to be licensed. The Section concurred that a person must be licensed to use 'engineer' in their title. Mr. Courtney provided background information on how VDOT reviewed all employee job titles; if they had engineer in their title, they either had to be licensed or reclassify the job. Mr. Courtney suggested contacting Mal Kerley with VDOT to discuss the process they implemented.

Other Business

Mr. Johnson thanked Ms. Hawkins for speaking with the Section.

Section members reviewed correspondence received from Warren Niederhut, PE, regarding an issue with DEQ and submitted plans, which have proprietary components, being public property. Mr. Niederhut requested the issue be brought before the Board and the General Assembly. Ms. Nosbisch stated that she does not think this is a board issue, and suggests Mr. Niederhut may want to contact someone in a supervisory capacity at DEQ. Another option for Mr. Niederhut may be to contact an attorney; contact professional organizations such as VSPE or ACEC; or to contact the FOIA Advisory Board. The Section agreed by consensus this was not a matter for the Board.

Ms. Nosbisch reviewed the comments from the December 15, 2011, APELSCIDLA Board meeting, regarding the Department of Conservation and Recreation's (DCR) Nutrient Management Program. Mr. Christopher Gwaltney, PE, attended the APELSCIDLA Board meeting and stated during

**Discussion on DCR
Nutrient Management
Training Program
Requirements**

public comment he felt DCR was violating 54.1-406.A of the *Code of Virginia*, as they would not accept his engineering background to fulfill the training program requirements. Mr. Gwaltney was present to hear the discussion by Section members and answer any questions they may have. Section members agreed that DPOR and the board have no purview over the application and certification process of another state agency. Mr. Garofalo suggested that Mr. Gwaltney explore some type of appeal process with DCR, much like the Informal Fact Finding Conferences offered to license applicants at DPOR. Mr. Courtney stated that VSPE may also be able to offer assistance.

Section members reviewed correspondence from Nancy McIntyre, Land Surveyor Section member, regarding value engineering and the use of another professional's plans. Ms. McIntyre requested that each section discuss the topic prior to the full board meeting March 20, 2012.

Discussion on Value Engineering & Use of Another Professional's Plans

Ms. McIntyre asked if approved plans, which are public record, can be reviewed for value engineering by a professional without permission from the original professional. Section members agreed that plans can be reviewed without permission; however any changes would need permission from the 'owner.' The section discussed 'ownership' of plans and stated that ownership must be established in a written form.

Discussion was held on topographic information used as base information. Mr. Johnson expressed concerns that regulants and localities often use topographic surveys as base information that are not current or are not properly signed and sealed. Mr. Courtney suggested approaching professional organizations such as VSPE, ACEC and VAS; in turn they could provide the information to their members and to VML and VACO.

Discussion on Topographic Information Used as Base Information

Discussion was held on locality plan reviewers requesting changes on submitted plans, and then "holding" the plans if the professional does not make the requested changes. Section members discussed the appeal process and agreed that it is often ineffective. Mr. Courtney suggested utilizing the VSPE legislative team to work on a legislative change. Mr. Garofalo recommended a legislative appeals committee that would include engineers and surveyors.

Discussion on "Reviewers" Holding up Approvals

Ms. Nosbisch stated that clarification was needed on the use of approved graduate degrees to satisfy experience requirements. Section members agreed that an applicant cannot use a graduate degree to satisfy the experience requirement, if the graduate degree is validating a non-engineering undergraduate degree.

Clarification on Board Approved Graduate Degrees

The Section recessed from 11:05 a.m. until 11:15 a.m.

Recess

Ms. Nosbisch reviewed background information on the guidance document

Discussion on Proposed

as discussed at the full board meeting December 15, 2011. Section members continued the discussion on the need for a guidance document on comity licensure requirements. Section members agreed that the document meets the needs of the professional engineers as written, however, the different professions of the board may need to be clarifying language, as they do not all have the same requirements.

**Board Guidance
Document for Comity
Licensure**

Ms. Nosbisch provided an update on the exam vendor RFP. Ms. Nosbisch stated that only one proposal had been received, from PCS the current exam vendor. The negotiation letter will be sent within the week, PCS will be asked to respond, a notice of reward will follow.

RFP Update

Ms. Nosbisch provided updates on NCEES including: ANSI recently approved the Model Law structural engineer standard developed by NCEES; and computer based testing (CBT) for the FE and FS exams to begin January 2014. A task force has been established to consider CBT for the PE and PS exams.

NCEES Update

Mr. De León inquired about applicants with Construction and Engineering Management degrees including more construction management experience than engineering experience. Mr. Courtney stated that 18VAC10-20-240.1 includes construction experience; however it must include engineering experience. Mr. Johnson stated that when reviewing these applicant's experience, he often has them provide more detail and that typically they are able to provide the engineering experience component.

Other Business

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:40 a.m.

Adjourn

Wiley V. Johnson III, Chair

Gordon N. Dixon, Secretary